

Date: May 27, 2003

## **MINUTES KENTUCKY OSH STANDARDS BOARD PUBLIC MEETING**

**May 6, 2003**

A public meeting of the Kentucky Occupational Safety and Health Standards Board, herein after referred to as Board, was held at the Farnham Dudgeon Civic Center, Capital Plaza Authority Civic Center, 405 Mero Street, Frankfort, Kentucky, on December 11, 2002, with Mr. Joe Norsworthy, Chair, presiding. In addition to Mr. Norsworthy, members present were Mr. Michael Davis, Mr. Carl Dowell, Ms. Elizabeth Jamison, Mr. Bob Martin, Ms. Nancy Skiba, Mr. Larry Tabor, Ms. Jan Tronzo and Ms. Savannah Wade. Also present were Hon. Fred Huggins, Mr. Tim Chancellor, Mr. Chuck Stribling and Ms. Beverly Gravitt. The roll called and a quorum having been established, the meeting was called to order at approximately 1:35 P.M. (ET).

Before addressing the first order of business, Secretary Norsworthy asked that Mr. Tim Chancellor, Health Standards Specialist, Hon. Fred Huggins, General Counsel Office, and Mr. Chuck Stribling, Safety Standards Specialist introduce themselves.

After swearing in all the members and welcoming the new Board members, Mr. Michael Davis, Mr. Larry Tabor and Ms. Savannah Wade, Mr. Norsworthy then called for approval of the minutes of the May 7, 2002 meeting of the Board, which were approved unanimously.

Mr. Norsworthy then introduced Mr. Anthony Russell, Director of the OSH Division of Education and Training, and asked him to present a Kentucky Occupational Safety and Health Program overview. Highlights of Mr. Russell's presentation were:

- Federal OSHA Program
- Relationship with Federal OSHA Program and KYOSH Program
- How KYOSH Program operates
- What KYOSH does
- How KYOSH is organized
- What KYOSH is doing with our Strategic Plan
- How our OSHA Strategic Plan ties in with Labor Cabinet's overall Strategic Plan, missions, core values and what we do as an overall agency
- KYOSH statistics
- Services offered by the Division of Education and Training

The following proposed changes to the regulations were then considered by the Board:

The first set of regulations to be considered, revisions to 29 CFR 1915, "Occupational Safety and Health Standards for Shipyard Employment," as published in the Federal Register, July 3, 2002.

Mr. Chuck Stribling, Safety Standards Specialist, stated that the above Shipyard Employment Standards contain a number of minor typographical, grammatical, and several inaccurate cross references. He stated that the amendments were technical in nature, are not substantive, do not impose additional compliance obligations on employers, and do not reduce the protection provided to employees. Mr. Stribling said that these minor changes affect 29 CFR 1915, as adopted by 805 KAR 2:500.

A motion was made to adopt the proposed change which was seconded. The motion was passed unanimously without discussion.

The second set of regulations to be considered, also introduced by Mr. Stribling, were revisions to 29 CFR Part 1926, Subpart G, "Signs Signals and Barricades," as published in the Federal Register, September 12, 2002. This final rule addresses the types of signs, signals, barricades and devices that must be used to protect construction employees from traffic accidents.

Mr. Stribling said that the current Federal Standards require that signs, signals, barricades and other devices conform to the 1971 edition of the "Manual on Uniform Traffic Control Devices" (MUTCD) for Streets & Highways," which is a document published by the American National Standards Institute (ANSI). He said that in the Commonwealth, a state specific amendment requires conformance with the 1978 edition of that same document.

Mr. Stribling explained the history of the manual. He stated that in the early 1970's, the Federal Highway Administration assumed responsibility from ANSI for publishing the manual. The Federal Highway Administration rewrites the manual every ten to twenty years and they amend it about every two to three years. He stated the manual is established as the "national standard for all traffic control devices installed on any street, highway, or bicycle trail open to public travel." He also stated that until the Millennium Edition was published in December 2000, the most recent edition of the manual was the 1988 edition. The 1988 edition consisted of ten parts, including part IV, which is titled "Standards and Guides for Traffic Controls for Street and Highway Construction, Maintenance, Utility, and Incident Management Operation." The Federal Highway Administration substantially revised and reissued Part VI of the manual in 1993. That is known as Revision III. There are substantial differences both in substance and format between Revision III and the 1978 manual currently used in the Commonwealth of Kentucky. The most recent edition of the manual, the Millennium Edition, contains some substantive changes in a new easier to use format.

Mr. Stribling also provided OSHA history on the final rule. He remarked that several stakeholders asked OSHA to update the incorporation of the 1971 manual. In January 1999, the National Committee on Uniform Traffic Control Devices unanimously resolved to request OSHA to adopt Revision 3 in place of the 1971 Manual. That organization consists of various national groups interested in highway construction or highway safety. Accordingly, OSHA published the rule as a direct final rule in the Federal Register on April 15, 2002. However, OSHA received two adverse comments to the rule, one from the National Electrical Contractors and one from the National Association of Homebuilders. Both comments challenged the effective date of the rule and on July 15, 2002, OSHA published a notice in the Federal Register withdrawing the rule. In response to those comments OSHA delayed the effective date approximately 120 days and reissued the rule before the Board.

Mr. Stribling stated the final rule for consideration:

- Amends the safety and health regulations for construction to adopt and incorporate Revision 3 and the option to comply with the Millennium Edition, instead of the 1971 Manual, and to make certain editorial changes;
- Deletes the references to the 1971 Manual and inserts references to Revision 3 and the option to comply with the Millennium Edition;
- Clarifies and abbreviates by adopting the requirements of Revision 3 and the option to comply with the Millennium Edition with regard to the use of flaggers; and
- Makes certain editorial corrections, replacing the term workmen with the term workers and replacing the term flagmen with the term flaggers.

Mr. Stribling also pointed out that the final rule better reflects current practices and techniques to best insure employee safety and health and that these changes affect 29 CFR 1926.200, 1926.201, and 1926.202 as adopted by 803 KAR 2:406.

There was motion to adopt the final rule which was seconded. The motion was passed unanimously.

Mr. Norsworthy discussed the Safety and Health Network Board that is co-hosting the Governor's Safety and Health Conference in May 2003, and introduced President Benny Adair and President-Elect Jan Tronzo. Mr. Norsworthy also invited all of the OSH Standards Board members to attend the conference.

There being no further discussion on old or new business, the meeting was adjourned.